

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

AUDEN VALDEZ,

Plaintiff,

v.

No. 1:21-cv-00572-KWR-SCY

NEW MEXICO DEPARTMENT OF CORRECTIONS,

Defendant.

**ORDER OF DISMISSAL**

**THIS MATTER** is before the Court on Plaintiff's failure to prosecute his civil rights action. Plaintiff is incarcerated and proceeding *pro se*. On June 22, 2021, he filed a Complaint challenging his conditions of confinement at the Central New Mexico Correctional Facility. *See* Doc. 1. Plaintiff submitted a motion to proceed *in forma pauperis* along with the Complaint. *See* Doc. 2. Such relief is only available where an inmate's "statement of ... assets [demonstrates] that [he] is unable to pay [the \$402 civil filing fee] or give security therefor." 28 U.S.C. § 1915(a)(1). Plaintiff's financial statement reflects he has \$1,343.80 in his inmate spending account. *See* Doc. 2 at 3. Accordingly, the Court denied the *in forma pauperis* motion and directed Plaintiff to pay the filing fee within thirty days, *i.e.*, by August 18, 2021.

Plaintiff failed to pay the filing fee or otherwise respond to the Order. Accordingly, the Court will dismiss the Complaint without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute and comply with orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003) (Rule 41 permits *sua sponte* dismissal for failure to prosecute and comply with orders.)

**IT IS ORDERED** that Plaintiff's Prisoner Civil Rights Complaint (**Doc. 1**) is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute; and the Court will enter a separate judgment

closing the civil case.

**IT IS SO ORDERED.**



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**KEA W. RIGGS**  
**UNITED STATES DISTRICT JUDGE**